

Notice of Allowability

Application No.

10/616,761

Examiner

Karin M. Reichle

Applicant(s)

LOOMIS, BENJAMIN N.

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3-3-2006.
2. ☒ The allowed claim(s) is/are 1,2 and 4-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>3-3-06</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>Sheet 3/4 showing agreed
drawing changes, Clean and marked up
copies of Sub-spec.</u> |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Mr. Rothe on 5-25-06.

3. The application has been amended as follows:

In the Specification,

Please enter the attached substitute specification (It is noted both a clean copy and a marked up copy has been provided).

In the clean copy of the specification referred to above make the following amendments:

On page 3, line 23: change "ejected" to --ejectable--;

On page 4, lines 13-14: change "as yet undepressed" to --in a relaxed position--;

On page 4, lines 15-16: change "fully inserted into" to --in a compressed position in--;

On page 4, line 18: change "fully depressed" to --in the compressed position--;

On page 5, line 25: delete "and" (2nd);

On page 8, line 21, after "unactuated", insert --or relaxed--;

On page 9, line 11: after "in its", insert --compressed or--.

In Claim 1(Patent Claim 1),

line 8: after "plunger", insert --inserted in the axial passage and--;

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lines 10-11: change “wherein...position” to --and wherein the nose has a resilient folding protrusion extending therefrom for pushing the suppository through the side aperture as it folds upon travel of the plunger from its relaxed position toward its compressed position--.

In Claims 4 and 5(Patent Claims 3-4, resp.),

line 1: change “3” to --1--.

In claims 6 and 14(Patent Claims 5 and 13, resp.),

line 1: change “plunger” to --dispenser--.

In Claim 12(Patent Claim 11),

line 9: after “plunger”, insert --inserted in the axial passage--;

lines 10-11: delete “said protrusion...plunger,”;

line 14: after “direction”, insert --parallel to the axial passage--;

lines 18-19: change “wherein...position” to --wherein the suppository is pushed through the side aperture by said protrusion as the plunger travels from its relaxed position toward its compressed position--.

In Claim 19(Patent Claim 18),

line 5: after “fingers”, insert --for--;

line 12: after “plunger”, insert --inserted in the axial passage--;

lines 13-14: delete “said protrusion...plunger,”;

line 17: after “direction”, insert --parallel to the axial passage--;

lines 21-22: change “wherein...position” to --wherein the suppository is pushed through the side aperture by said protrusion as the plunger travels from its relaxed position toward its compressed position--.

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Cancel Claim 3.

4. Claims 1-2 and 4-20 are allowed.

5. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: see attached sheet 3/4. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

6. The following is an examiner's statement of reasons for allowance: The terms "suppository", "nose" and "proximate" are defined as set forth in the 1-3-06 Office Action. See the last paragraph of page 2, the first two full paragraphs of page 3 and page 9, line 10-page 10, line 22 of the substitute specification. The prior art references, alone or in any combination, do not teach a resilient folding protrusion as set forth in the last section of claim 1, and sections (a) and (c) of claims 12-19 in combination with the other features of those claims respectively. Neither the prior art to Lemelson '303 nor Kaldany '070 which are considered to be the closest prior art teach such a protrusion. Specifically, '070 teaches a flexible, at most stretchable, i.e. not necessarily resilient, membrane which is moved from a folded or collapsed position to an unfolded or uncollapsed position to deliver particulate or liquid material, i.e. is not a resilient protrusion which folds to push a suppository, i.e. a solid mass, through a side aperture as claimed herein.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936.

The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
May 29, 2006

Approved
KMA
5-29-06

3/4

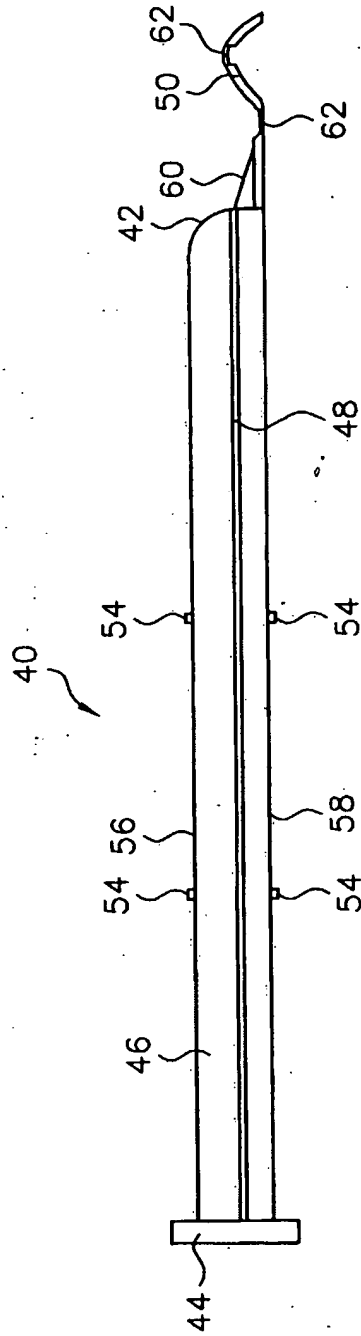


FIG. 6

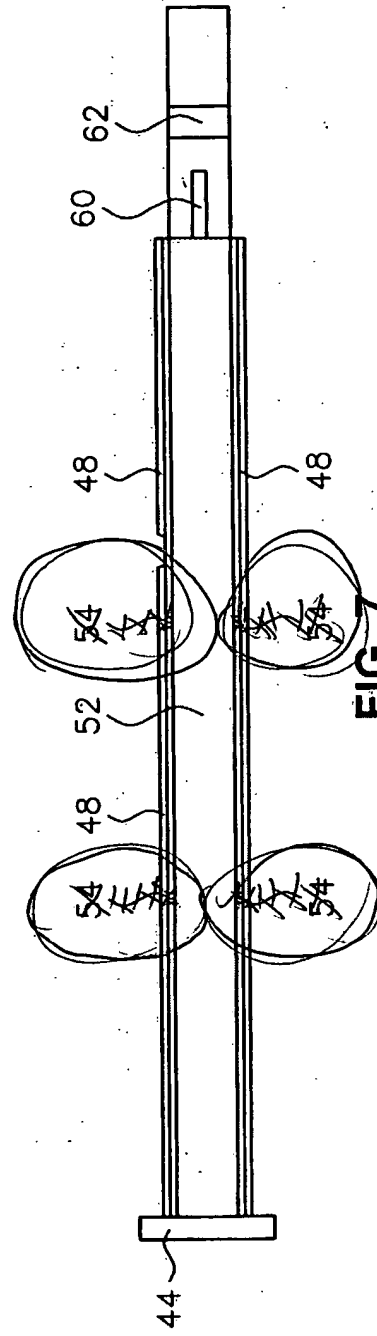


FIG. 7